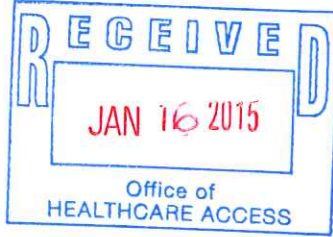



62 Washington Ave, Ste 1
North Haven, CT 06473
203-234-7727
203-234-7114
www.nhpainmedline.com

**North Haven Surgery
Center**



Fax

To: Kimberly Martone, OHCA **From:** Steven Oster 

Fax: 860-418-7053 **Pages:** 11 (including cover)

Phone: **Date:** 1/16/15

Re: North Haven Surgery Center, LLC **cc:**

Urgent For Review Please Comment Please Reply Please Recycle

Ms. Martone –

Please refer to attached CON Determination Form (Form 2020). I will also forward a hardcopy of same to you via US Mail.

Steven Oster, Administrator

NORTH HAVEN

SURGERY CENTER

January 16, 2015

VIA FACSIMILE (860) 418-7053
& U.S. MAIL

Kimberly R. Martone
Director of Operations
Office of Health Care Access
Division of the Department of Public Health
410 Capitol Avenue
Hartford, CT 06134-0308



Re: North Haven Surgery Center, LLC

Dear Ms. Martone:

Enclosed a CON Determination Form being submitted on behalf North Haven Surgery Center, LLC.

Should you have any questions, please feel free to contact me at (203) 234-7727, extension 202, or our outside legal counsel, Stephen Cowherd, at (203) 259-7900.

Very truly yours,

Steven P. Oster
Administrator



**State of Connecticut
Office of Health Care Access
CON Determination Form
Form 2020**

All persons who are requesting a determination from OHCA as to whether a CON is required for their proposed project must complete this Form 2020. The completed form should be submitted to the Commissioner of the Office of Health Care Access, 410 Capitol Avenue, MS#13HCA, P.O. Box 340308, Hartford, Connecticut 06134-0308.

SECTION I. PETITIONER INFORMATION

If this proposal has more than two Petitioners, please attach a separate sheet, supplying the same information for each Petitioner in the format presented in the following table.

	Petitioner	Petitioner
Full Legal Name	North Haven Surgery Center, LLC	
Doing Business As		
Name of Parent Corporation	n/a	
Petitioner's Mailing Address, if Post Office (PO) Box, include a street mailing address for Certified Mail	52 Washington Ave. North Haven, CT 06473	
What is the Petitioner's Status: P for profit and NP for Nonprofit	P	
Contact Person at Facility , including Title/Position: This Individual at the facility will be the Petitioner's Designee to receive all correspondence in this matter.	Steven P. Oster, Administrator	

Contact Person's Mailing Address, if PO Box, include a street mailing address for Certified Mail	52 Washington Avenue North Haven, CT 06473	
Contact Person's Telephone Number	203-234-7727, x-202	
Contact Person's Fax Number	203-234-7114	
Contact Person's e-mail Address	soster@nhsurgeryctr.com	

SECTION II. GENERAL PROPOSAL INFORMATION

- a. Proposal/Project Title: Sale of Two 5.0% Membership Interests in North Haven Surgery Center, LLC.
- b. Location of proposal, identifying Street Address, Town and Zip Code: 52 Washington Avenue, North Haven, CT 06473
- c. List each town this project is intended to serve:

Primary Service Area: Hamden, North Haven, Wallingford, New Haven and West Haven

Secondary Service Area: Madison, Old Saybrook, Branford, Woodbridge, Orange, and Clinton.
- d. Estimated starting date for the project: October 1, 2013.
- e. Type of Entity: (Please check *E* for Existing and *P* for Proposed in the boxes that apply)

<input type="checkbox"/> <input type="checkbox"/> Acute Care Hospital	<input type="checkbox"/> <input type="checkbox"/> Imaging Center	<input type="checkbox"/> <input type="checkbox"/> Cancer Center
<input type="checkbox"/> <input type="checkbox"/> Behavioral Health Provider	<input checked="" type="checkbox"/> <input type="checkbox"/> Ambulatory Surgery Center	<input type="checkbox"/> <input type="checkbox"/> Primary Care Clinic
<input type="checkbox"/> <input type="checkbox"/> Hospital Affiliate	<input type="checkbox"/> <input type="checkbox"/> Other (specify): _____	

SECTION III. EXPENDITURE INFORMATION

- a. Estimated Total Project Cost: \$ 0
- b. Please provide the following breakdown as appropriate: (may not represent the aggregate shown above)

Medical Equipment Purchases	N/A
Major Medical Equipment Purchases	N/A
Non-Medical Equipment Purchases*	N/A
Land/Building/Asset Purchases	N/A
Construction/Renovation	N/A
Other (Non-Construction) Specify: _____	N/A
Total Capital Expenditure	N/A
Medical Equipment - Fair Market Value of Leases	N/A
Major Medical Equipment - Fair Market Value of Leases	N/A
Non-Medical Equipment - Fair Market Value of Leases*	N/A
Fair Market Value of Space -Capital Leases Only	N/A
Total Capital Cost	N/A
Total Project Cost	N/A
Capitalized Financing Costs (Informational Purpose Only)	N/A

* Provide an itemized list of all non-medical equipment to be purchase and leased.

Major Medical and/or Imaging Equipment Acquisition: N/A

Equipment Type	Name	Model	Number of Units	Cost per unit

Note: Provide copy of the vendor contract or quotation for the medical equipment.

- c. Check each applicable financing method or funding source to be used for the proposal:

- Petitioner's Equity Capital Lease Conventional Loan
- Charitable Contributions Operating Lease CHEFA Financing
- Funded Depreciation Grant Funding Other (specify): _____

SECTION IV. PROPOSAL DESCRIPTION

Please provide a description of the proposed project, highlighting each of its important aspects, on at least one, but not more than two separate 8.5" X 11" sheets of paper. At a minimum each of the following elements need to be addressed, if applicable.

1. Identify the types of services currently provided. If applicable, provide a copy of each Department of Public Health license held by the Petitioner.
2. Identify the types of services that are being proposed and what DPH licensure categories will be sought, if applicable?
3. Identify the current population served and the target population to be served.
4. Identify the entity that will be providing the service(s).
5. Identify the entity that will be responsible for the billing of the service(s) relating to this proposal.
6. Identify the entity that owns/leases or will own/lease the physical space of the proposed equipment/service.
7. If there is more than one entity involved in this proposal, please provide copies of any and all existing or proposed contracts or written agreements entered between the two entities that relate to the proposal.
8. Provide a list that identifies the name of each petitioning or affiliate entity involved with this proposal.
9. Provide a copy of the chart of organization for each individual petitioning entity or affiliate and a corporate chart of organization, if applicable.
10. Provide a narrative that addresses the relationship of each petitioning or affiliate entity with the other entities involved with this proposal.
11. Who are the current payers of this service and identify any anticipated payer changes when the proposed project becomes operational?

PROPOSAL DESCRIPTION

This Certificate of Need Determination request is being filed by North Haven Surgery Center, LLC ("NHSC") to determine whether the proposed sale of two separate 5.0% membership interests in NHSC to two community physician groups (the "Proposal") requires CON approval. For the reasons set forth below, NHSC respectfully submits that the sale of these minority interests does not constitute a "transfer of ownership" of a health care facility for which CON approval is required under Section 19a-638(a)(2) of the Connecticut General Statutes (C.G.S.).

As a preliminary matter, NHSC acknowledges that due to an administrative oversight this CON Determination request is being submitted subsequent to closing of the sales set forth in the Proposal. However, NHSC respectfully submits that such sales were consummated on the good-faith belief that CON approval was not required for the reasons articulated above, and based on OHCA's determination regarding NHSC's previous CON Determination Request (10-31669-DTR) which presented virtually identical facts to the request at hand.

Background

NHSC is a Connecticut limited liability company that owns and operates a licensed outpatient surgical facility at 52 Washington Avenue in North Haven. A copy of the facility license is attached at Exhibit A.

The proposed investors are two physician groups, CBA Ambulatory Surgery, LLC ("CBA") and Generations Surgical, LLC ("Generations"), whose members are as follows:

CBA Ambulatory Surgery, LLC

Kenneth Ciardiello, MD
John Bonadies, MD
John Aversa, Jr., DO

Generations Surgical, LLC

Ami Acharya, MD
Maria Asis, MD
Kristen Aversa, MD
Sean Flaherty, MD
Joseph Grosso, MD
Craig Huttler, MD
Beth Maloy, MD

The members of CBA and Generations listed above each own equal membership interest in their respective group practices and both group practices have their main offices located in Hamden, Connecticut (specifically, 2200 Whitney Avenue in the case of CBA and 2080 Whitney Avenue in the case of Generations).

Discussion

With respect to the law applicable to this Proposal, C.G.S. § 19a-630(14), defines "transfer of ownership" as "a transfer that impacts or changes the governance or controlling body of a health care facility or institution, including, but not limited to all affiliations, mergers, or any sale of any net assets of a health care facility."

The controlling body for NHSC is described in NHSC's Limited Liability Company Agreement (the "LLC Agreement"). With the exception of certain enumerated items, the LLC Agreement vests control of the business, property and affairs of NHSC in a four-person Board of Managers. Neither CBA, Generations, nor any of their constituent members will participate on the Board of Managers as the LLC Agreement dictates that the number of Managers shall be fixed at four and only certain members of NHSC can appoint a Manager. Specifically, the LLC Agreement provides for the Board of Managers to be made up of two representatives appointed by Titan Health of North Haven, LLC ("Titan"), which currently owns a 23.08% membership interest, one representative appointed by Comprehensive Pain and Headache Treatment Centers, LLC ("CPHTC"), a group practice which owns 32.12% of NHSC and one representative appointed by the physician principals of ENT Specialists, P.C. ("ENT Specialists"), Drs. David Astrachan and Craig Hecht, who each own an 8.7% membership interest in NHSC.¹ In addition to not changing the composition of the controlling body of NHSC, none of the other governance provisions of the LLC Agreement will be amended or changed in any way in connection with CBA and Generations purchasing their minority interests in the facility.

The proposed new group practice investors (CBA and Generations), neither directly nor indirectly, are being given any control over NHSC's Board of Managers or its other governance and management processes. To the contrary, all of the current members of NHSC – Titan, CPHTC and the two physician principals of ENT Specialists, who own 23.08%, 32.12%, 8.7% and 8.7% interests, respectively, after the proposed sale transaction takes place – will retain their current representation on the Board of Managers. These same members will also maintain their collective ability to take those actions that require both a simple and supermajority vote of the members under the LLC Agreement.

Conclusion

In summary, the proposed sale of two 5.0% membership interests to CBA and Generations, respectively, will not impact nor change the governance or controlling body of NHSC. Moreover, it will not result in any other changes for NHSC in terms of the facility's licensure category, physical space, billing practices, third-party payers it contracts with or the target population it serves. Based on the foregoing, it is respectfully submitted that CON approval is not necessary for CBA and Generations to purchase a minority interest in the facility.

¹ All percentages are post-sale to CBA and Generations.

SECTION V. AFFIDAVIT

(Each Petitioner must submit a completed Affidavit.)

Petitioner: North Haven Surgery Center, LLC

Project Title: Sale of Two 5.0% Membership Interests in North Haven Surgery Center, LLC

I, Steven Oster, Administrator
(Name) (Position – CEO or CFO)

of North Haven Surgery Center, LLC being duly sworn, depose and state that the
(Organization Name)

information provided in this CON Determination form is true and accurate to the best of my
knowledge, and that North Haven Surgery Center, LLC complies with the appropriate
(Facility Name)

and applicable criteria as set forth in the Sections 19a-630, 19a-637, 19a-638, 19a-639, 19a-
486 and/or 4-181 of the Connecticut General Statutes.

Steven Oster _____ 1/16/15
Signature Date

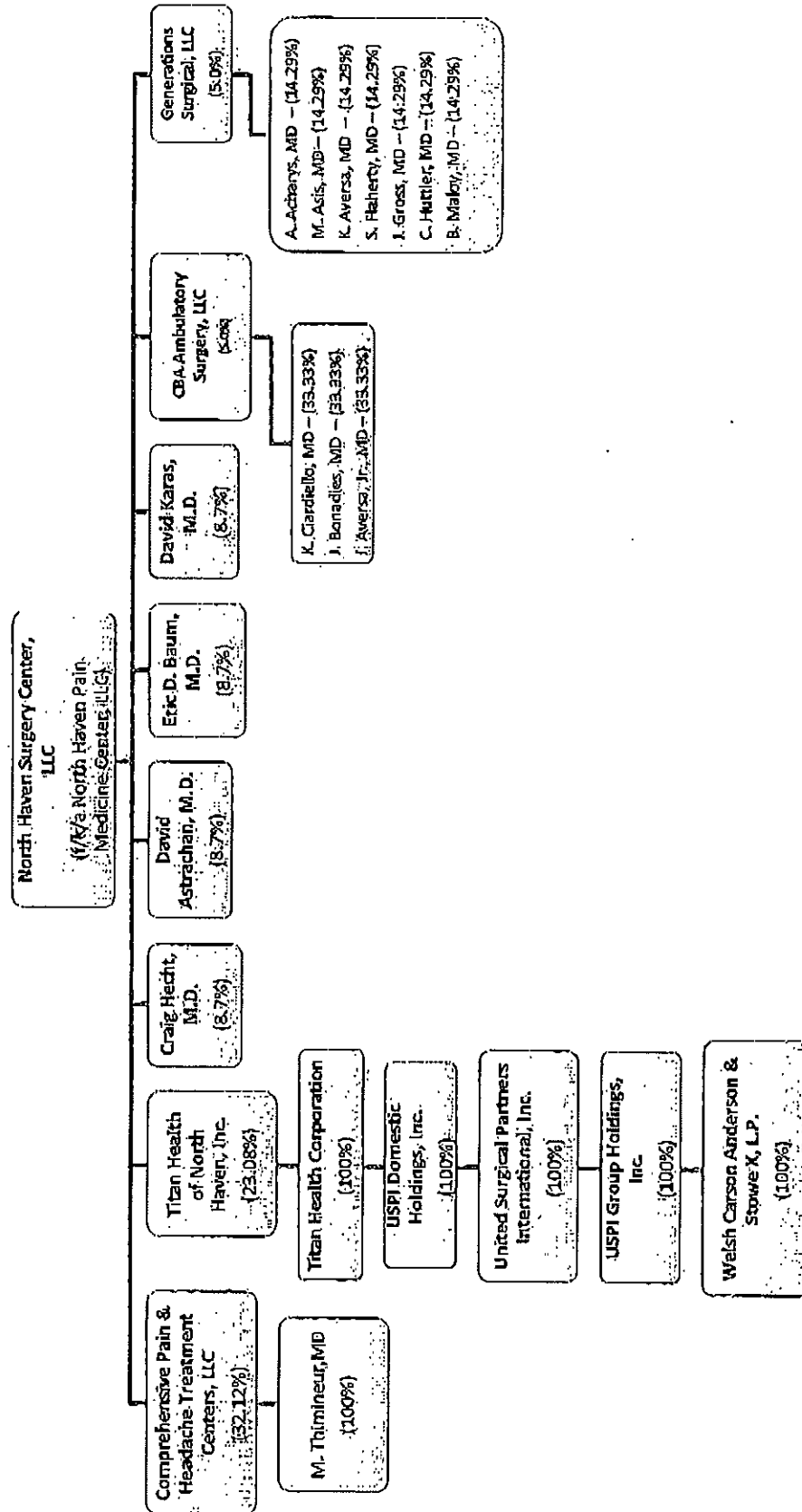
Subscribed and sworn to before me on January 16th, 2015

[Signature]
Notary Public/Commissioner of Superior Court

My commission expires: 7/31/19



North Haven Surgery Center, LLC Organizational Chart



STATE OF CONNECTICUT

Department of Public Health

LICENSE

License No. 0306

Out-Patient Surgical Facility

In accordance with the provisions of the General Statutes of Connecticut Section 19a-493:

North Haven Surgery Center, LLC of North Haven, CT, d/b/a North Haven Surgery Center, LLC is hereby licensed to maintain and operate an Out-Patient Surgical Facility.

North Haven Surgery Center, LLC is located at 52 Washington Avenue, Suite A, North Haven, CT 06473.

This license expires **March 31, 2015** and may be revoked for cause at any time.

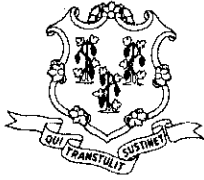
Dated at Hartford, Connecticut, April 1, 2013. RENEWAL

Waiver Sec. 19-13-D56 (e)(9) exp: n/a



A handwritten signature in cursive script that reads "Jewel Mullen, MD".

Jewel Mullen, MD, MPH, MPA
Commissioner



STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH
Office of Health Care Access

January 16, 2015

Steven P. Oster
Administrator
North Haven Surgery Center, LLC
52 Washington Avenue
North Haven, CT 06473

Re: Certificate of Need Determination Request; Report Number: 15-31973-DTR
Sale of Two (2) 5.0 % Membership Interests in North Haven Surgery Center, LLC

Dear Mr. Oster:

On January 16, 2015, the Office of Health Care Access ("OHCA") received your Certificate of Need ("CON") Determination request regarding the planned sale of two (2) 5.0 % membership interests in North Haven Surgery Center, LLC.

North Haven Surgery Center, LLC ("NHSC") is a for-profit freestanding ambulatory surgery center, located at 52 Washington Street in North Haven, Connecticut. NHSC is controlled by a four-person Board of Managers ("Board"). The limited liability company agreement ("Agreement") for NHSC provides for the number of managers on the Board be fixed at four (4) and only certain members can appoint a manager. The Agreement provides for the Board to be made up of two representatives appointed by Titan Health of North Haven, LLC, one representative appointed by Comprehensive Pain and Headache Treatment Centers, LLC, and one representative appointed by the physician principals of ENT Specialists, PC.

NHSC proposes to sell two (2) 5.0% interests in NHSC to two physician groups, CBA Ambulatory Surgery, LLC ("CBA") and Generations Surgical, LLC ("Generations"). The proposed sale to CBA and Generations will not result in a change of the governance or controlling body of NHSC. The proposed sale will not result in any other changes for NHSC in terms of the facility's services, licensure category, physical space, billing practices, third-party payers or the target population served.

Connecticut General Statutes § 19a-638(a)(2) requires CON authorization for the "transfer of ownership of a health care facility". Connecticut General Statutes §19a-630(14) defines a "transfer of ownership" as "a transfer that impacts or changes the governance or controlling body

An Equal Opportunity Employer

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Telephone: (860) 418-7001 Toll-Free: 1-800-797-9688
Fax: (860) 418-7053

of a health care facility...” Since NHSC has represented that there will be no impact or change to the governance or controlling body of NHSC, OHCA hereby determines that a ***CON is not required*** for the proposal.

Sincerely,



Kimberly R. Martone
Director of Operations

C: Rose McLellan, License and Applications Supervisor, DPH, DHSR

* * * COMMUNICATION RESULT REPORT (JAN. 16. 2015 3:00PM) * * *

FAX HEADER:

TRANSMITTED/STORED : JAN. 16. 2015 2:59PM
FILE MODE OPTION

ADDRESS

RESULT

PAGE

851 MEMORY TX

912032347114

OK

3/3

REASON FOR ERROR
E-1) HANG UP OR LINE FAIL
E-3) NO ANSWER

E-2) BUSY
E-4) NO FACSIMILE CONNECTION



STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH
OFFICE OF HEALTH CARE ACCESS

FAX SHEET

TO: STEVEN P. OSTER

FAX: 203 234-7114

AGENCY: NORTH HAVEN SURGERY CENTER, LLC

FROM: OHCA

DATE: 1/16/15 Time: _____

NUMBER OF PAGES: _____
(including transmittal sheet)

Comments:

Please see attached Determinaion for Report Number: 15-31971-DTR.

PLEASE PHONE Barbara K. Olejarz IF THERE ARE ANY TRANSMISSION PROBLEMS.

Phone: (860) 418-7001

Fax: (860) 418-7053

410 Capitol Ave., MS#13HCA
P.O.Box 340308
Hartford, CT 06134